

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA**

In re:

Case No. 06-10345
Chapter 13

ROBERT C. GOODRUM,

Debtor.

ORDER

On August 4, 2008, the debtor in this chapter 13 case, Robert C. Goodrum, filed a motion for refund of attorney fees paid in this case to his former counsel, Cameron A. Metcalf.¹ The motion was set for hearing on September 19, 2008, at which time both Mr. Goodrum and Mr. Metcalf appeared.

In short, Mr. Goodrum takes exception to the way that Mr. Metcalf handled a matter involving Mr. Goodrum's home mortgagee, New Century Mortgage Corporation. On January 10, 2007, the mortgagee filed a motion seeking relief from stay on Mr. Goodrum's home alleging a default in the payments. Mr. Goodrum contends that the motion was predicated upon his failure to pay certain installment payments which were, in fact, paid. Further, Mr. Goodrum contends that he furnished Mr. Metcalf sufficient evidence in support of his position that would have allowed a successful challenge of the mortgagee's claim but that Mr. Metcalf failed to pursue the matter. Instead, the parties negotiated an agreement and provided this court with a consent order resolving the dispute. That order entered on the record on March 19, 2007, and made provision for payment of amounts that Mr. Goodrum contends were previously paid.

This court is not convinced that evidence exists to mount a successful challenge to the mortgagee's claim. To date, no such objection to claim has been filed although Mr. Goodrum has intimated to this court that he will do so. The court is unwilling to reduce counsel's fee when it is not convinced that the position Mr. Goodrum insists his attorney should have taken had merit. Therefore, it is

¹Mr. Metcalf moved to withdraw as attorney for Mr. Goodrum on May 28, 2008, citing difficulties in dealing with his client as the cause for the motion. The motion was granted by order of June 17, 2008.

ORDERED that Robert C. Goodrum's motion for refund of attorney fees is DENIED without prejudice. Mr. Goodrum may reassert the motion if he is ultimately successful in his contest of the claim of his mortgagee, New Century Mortgage.

Done this the 24th day of September, 2008.

/s/ Dwight H. Williams, Jr.
United States Bankruptcy Judge

c: Robert C. Goodrum, Debtor
Cameron A. Metcalf, Former Debtor's Attorney
Curtis C. Reding, Trustee